

**STATE OF LOUISIANA
DEPARTMENT OF LABOR**

**REVISED RULES FOR
Appealed Claims of Board of Review and for
The Administration of the Employment Security Law
Prescribed and Adopted by the
ADMINISTRATOR
under
R. S. 23:1471-23:1750.10**

Current through March 1, 2000

**Title 40
LABOR AND EMPLOYMENT
Part IV. Employment Security**

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Chapter 1. Appealed Claims for Board of Review

§101. Office and Officers of the Board of Review

A. The office of the Board of Review, hereinafter referred to as "the board," shall be domiciled in the Office of Employment Security Administrative Office Building in Baton Rouge, Louisiana.

B. The board shall elect a chairman, vice-chairman and secretary, from its membership, all of whom shall serve at the pleasure of the majority of the board. The chairman shall not be denied any right of membership.

§103. Time and Place of Meeting of the Board

A. All meetings of the board shall be called by the chairman or by a majority of the board. The chairman shall notify the members of the board of any meeting in writing at least three days in advance, unless such notice is waived by the members. All meetings shall be held at the office of the board, or at any place within the state designated in the call.

§105. Quorum

A. Except as otherwise expressly provided in these rules, two members of the board shall constitute a quorum, until January 1, 1989, at which time three members will constitute a quorum, as per Act 924 of the 1988 Regular Session of Louisiana Legislature. In the absence of the chairman, the vice-chairman shall act as chairman.

§107. Computation of Time—Saturdays, Sundays and Holidays

A. Whenever these rules prescribe a time for the performance of any act, Saturdays, Sundays and legal holidays (half holiday is considered a legal holiday) in the state of Louisiana shall count as any other days, except that when the time prescribed for the performance of an act expired on a Saturday, Sunday or a legal holiday in Louisiana, such time shall extend to and include the next succeeding day that is not a Saturday, Sunday or such legal holiday, provided that, when the time for performing any act is prescribed by statute, nothing in these rules shall be deemed to be a limitation or extension of the statutory time fixed.

§109. Appeals to the Administrative Law Judge (Appeals Tribunal)

A. The party appealing from the agency's initial determination shall file, at the office or itinerant point of the Office of Employment Security, a notice of appeal (Form LBR-1), setting forth information required therein within 15 days after date notification was given or was mailed to his last known address.

B. It is hereby further provided that any letter written by claimant or employer to the Office of Employment Security or the board disputing the determination or appeal decision may be accepted in lieu of a formal form of appeal, Form LBR-1, provided said letter is received by any office of the Office of Employment Security or by the board within 15 days after notification was given or was mailed to his last known address.

§111. Notice of Hearing

A. A notice of hearing (Form LBR-2 or Form LBR-2T) shall be mailed to all parties to the appeal at least 10 days prior to the date of the hearing, specifying the place and time of the hearing.

§113. Postponements, Continuances, Reopenings, and Rehearings

A. Continuances or Postponements

1. A scheduled hearing may be postponed or continued by the administrative law judge for good cause, either upon his own motion or upon a showing of good cause by written request of a party, submitted to the administrative law judge whose name and address appear on the notice of hearing. Written notice of the time and place of a postponed or continued hearing shall be given to the parties or their named representatives.

2. The administrative law judge shall provide written denial to any party whose written request for postponement or continuance is received after his decision has been mailed. The requesting party shall also be provided written notice of his right either to file written request for a reopening of hearing before the administrative law judge within seven days from the date of mailing of the decision on the claim or to file further appeal to the Board of Review under §109 and §125. The untimely request for postponement or continuance shall not itself be treated as an appeal of the decision to the Board of Review. An appeal may also be timely filed by a party before the Board of Review under §109 and §125 after a written response to the request for reopening is issued by the administrative law judge.

3. Any such request of a party and response of the administrative law judge shall be incorporated in the case file.

B. If the appellant, who is the party who files the appeal before the Appeals Tribunal, fails to appear within 15 minutes after the scheduled hearing time at an in-person hearing, or fails to be available to receive the telephone call to participate in a scheduled telephone hearing at the scheduled hearing time, the administrative law judge shall order the appellant in default and issue a dismissal of appeal. In such event, the agency determination shall become the final decision. Written notice of default of the appellant and dismissal of the appeal shall be mailed to the parties. The appellant either may file a written request for reopening before the administrative law judge, with a showing of good cause, within seven days of the date of mailing of the dismissal decision or may file an appeal before the Board of Review under §109 and §125. If such appellant is denied a reopening by the administrative law judge, any such request shall be forwarded to the Board of Review as an appeal as of the date of the written request for reopening. If it is determined by the administrative law judge on reopening or by the Board of Review on appeal that the appellant has shown good cause for his nonappearance, the dismissal shall be vacated and a new hearing on the merits shall be scheduled.

C. If the appellee, who is the party whose agency determination is being appealed by another party before the appeals tribunal, fails to appear at the scheduled hearing time of an in-person hearing, or fails to be available to receive the telephone call to participate in a scheduled telephone hearing at the scheduled hearing time, the administrative law judge shall proceed to conduct the hearing and issue a decision on the merits based upon the administrative record and any evidence and testimony presented by the appellant. The appellee may either file a written request for reopening before the administrative law judge, with a showing of good cause, within

seven days of the date of mailing of the decision or may file an appeal before the Board of Review under §109 and §125. If such appellee is denied a reopening by the administrative law judge, any such request shall be forwarded to the Board of Review as an appeal as of the date of the written request for reopening. If it is determined by the administrative law judge on reopening or by the Board of Review on appeal that the appellee has shown good cause for his non-appearance, the decision shall be vacated, and a new hearing on the merits shall be scheduled.

D. The administrative law judge or the Board of Review, shall make a determination of good cause for failure to appear only if the written request for reopening or the appeal filed by the party contains a statement of the reason(s) for his failure to act in a timely manner and reasonably justifies a finding of good cause to excuse such failure.

E. Good Cause for Reopening

1. To determine whether good cause has been shown in a request for reopening or in an appeal to excuse the failure of a party to appear, the administrative law judge and the Board of Review shall consider any relevant factors, including, but not limited to:

- a. reasonably prudent behavior;
- b. untimely receipt of notice;
- c. administrative error;
- d. reasons beyond control or avoidance;
- e. reasons unforeseen;
- f. timely effort to request continuance;
- g. physical incapacities;
- h. degree of untimeliness; or
- i. prejudice to parties.

2. Failure to provide timely notice of change or correction of address shall not establish good cause for failure to appear, unless the party satisfactorily demonstrates his reasonable belief in his request or appeal that such notice was not needed or had been provided.

3. The basis of any determination by the administrative law judge or the Board of Review relating to good cause must be provided in the written response or decision. The fulfillment of each of the above factors is not required in any such response or decision for the establishment of good cause for failure to appear.

F. A written request for reopening before the administrative law judge may be filed within seven days of the date of mailing of his decision or an appeal to the Board of Review may be filed under §109 and §125 by any party for admission of additional evidence upon the showing of good cause that any such evidence is newly discovered or was unavailable or unknown at the time of the hearing.

G. The term *party* or *parties*, as used in these rules, shall mean the claimant and the employer or any legal or designated representative thereof, including the administrator in those appeals in which he is specified as a party under R. S. 23:1629.

§115. Conduct of Hearing Before Administrative Law Judge

A. The administrative law judge shall preside over the hearing. All testimony shall be given under oath or affirmation. The administrative law judge shall have the right to question and cross-examine all witnesses. Each party to the appeal, or their representatives, shall have the right to question their own witnesses and to cross-examine the opposing parties and witnesses.

B. Only testimony pertinent to the issue involved in the appeal shall be admitted by the administrative law judge.

C. Technical rules of evidence need not be complied with so long as all parties are given an opportunity to fully present their case.

D. Hearsay testimony is admissible, but may only be considered by the administrative law judge in making his decision to substantiate or corroborate other direct evidence.

E. Expunged criminal records shall not be deemed admissible evidence.

§117. Authority to Separate Witnesses (Placing Witnesses under the Rule)

A. Either party or the administrative law judge may require that a witness may be excluded from the hearing room. Witnesses who are excluded from the hearing shall be instructed not to discuss the case with anyone except the attorney or representative of the party on whose behalf they have been called. This shall not apply to the parties to the appeal or their attorney or representative.

§119. Additional Testimony

A. The administrative law judge may take such additional testimony as he deems necessary for a fair determination of the issues upon notice to all parties to the appeal as provided in §111.

§121. Stipulation of Facts

A. Parties to an appeal, with consent of the administrative law judge, may jointly stipulate the facts, in advance, in writing, or at the hearing. The administrative law judge may decide the appeal on the basis of the stipulation or, if he deems necessary, he may hold a hearing and take further testimony after giving notice as provided in §111.

§123. Decision of Administrative Law Judge

A. The administrative law judge shall render a decision as soon as reasonably possible on all issues involved. This decision will be in writing and will contain a statement of the facts found, the reasons therefor, and the conclusion reached. Copies of the administrative law judge's decision will be mailed to the parties to the proceeding, as defined in §113.

§125. Appeals to Board

A. Any party aggrieved by the decision of the administrative law judge may, within the time and the manner specified in §109, file an application for appeal to the board.

B. Upon receipt thereof, the board may, on the basis of the evidence previously submitted to the administrative law judge, affirm, modify, or reverse the findings and conclusions of the administrative law judge.

C. If the board deems it necessary to take additional evidence or decides to hear oral argument, a hearing shall be fixed and all parties shall be notified thereof as provided in §111.

D. The board may, at its discretion, remand the case to the administrative law judge for the taking of such additional evidence as the board may direct. Notice thereof shall be given as provided in §111.

E. Either party may submit written briefs to the board for its consideration at any time before the case is taken under advisement.

§127. Notification of Appeal

A. All applications for appeals shall be acknowledged and the opposing party shall be duly notified.

§129. Decision of the Board

A. The board shall, as soon as possible, announce its decision, including its findings of fact and conclusions in support thereof, or it may adopt the decision of the administrative law judge as its own.

B. The decision shall be in writing and shall be signed by the members of the board who considered the appeal. If the decision is not unanimous, the decision of the majority shall control. Dissenting opinions may be filed setting forth the reason for dissent. Copies of the board's decision will be mailed to the parties as defined in §113.

§131. Issuance of Subpoenas

A. Requests for subpoenas must be submitted in writing. They shall contain the name and address of the witness and a statement of what is intended to be proven by his or her testimony. Such request must be received by the administrative law judge or board at least 72 hours prior to the time for which the hearing is scheduled. If a request is timely made but service is not perfected or cannot be perfected in time for the appearance of the witness, this shall be grounds for a postponement.

§133. Representation before the Administrative Law Judge and Board

A. Any individual may appear for himself, and/or may be represented by counsel or other duly authorized agent, in any proceeding before the administrative law judge or board. Any partnership may be represented by any of its members or a duly authorized representative. Any corporation or association may be represented by an officer or a duly authorized representative.

§135. Disqualification of Representative

A. The administrative law judge or the board may refuse to allow any person to represent others in any proceeding before them whom they find guilty of contumacy or unethical conduct, or who intentionally and repeatedly fails to observe the pertinent provisions of the Louisiana Employment Security Law, R. S. 23:1471, et seq.

§137. Availability of Rules

A. Copies of these rules shall be made available at all area offices of the Office of Employment Security and may be inspected by any interested party. Copies of these rules may be requested from the board by parties having need thereof.

Chapter 3. Employment Security Law

§301. Authority

A. By virtue of the authority vested in the administrator of the Office of Employment Security of the State of Louisiana by the Louisiana Employment Security Law, R. S. 23:1471-1713 (Act 97 of 1936), as amended, and in order to establish uniform procedure under said law, the following regulations have been and are adopted and prescribed and all other regulations now in effect are hereby rescinded, but remain in to full force and effect relative to all matters arising prior to the effective date of the hereinafter prescribed and adopted regulations.

§305. Posting of Cards, Statements and Material Relating to the Louisiana Employment Security Law, R. S. 23:1471-1713 as Amended

A. All employers shall follow the instructions issued them by the administrator relative to the posting and maintaining in prominent locations in their places of business where they may be read by the public and all workers, such cards, statements and materials relating to unemployment compensation as are prescribed by the administrator.

§307. Contributions, Interest, Mailing Date of Contributions and Contribution Reports

A. Accrual and Due Date of Contributions

1. Period—October 1, 1940, and Thereafter. On and after October 1, 1940, contributions shall accrue quarterly with respect to wages paid within each calendar quarter for employment occurring on and after July 1, 1940.
2. Contributions due on wages paid during the period beginning July 1, 1940, and ending March 31, 1964, shall become due and shall be paid on or before the twenty-fifth day of the month following the calendar quarter in which such contributions accrue.
3. Contributions due on wages paid on or after April 1, 1964, shall become due and shall be paid on or before the last day of the month following the calendar quarter in which such contributions accrue.

B. Interest. Interest prescribed by law on all overdue contributions shall accrue on or after the day following the due date on any contribution payments up to and including the date of payment.

C. Payment of Contributions by Mail. Payment of contributions received through the mail shall be deemed to have been made and received as of the date shown by the postmark thereon.

D. Accrual and Due Date of Contributions by Employers who become Subject within the Calendar Year

1. With respect to contributions due on wages paid up to and including March 31, 1964, the first contribution payment of an employing unit which becomes an employer under the Louisiana Employment Security Law at any time during the calendar year, shall become due on, and shall

be paid on or before the twenty-fifth day of the month following the calendar quarter in which such employing unit becomes an employer.

2. With respect to contributions due on wages paid on and after April 1, 1964, the first contribution payment of an employing unit which becomes an employer under the Louisiana Employment Security Law at any time during the calendar year, shall become due on, and shall be paid on or before the last day of the month following the calendar quarter in which such employing unit becomes an employer.

3. The first contribution payment of an employer becoming liable during a calendar year shall include all contributions with respect to wages paid for employment occurring on and after January 1 of the calendar year up to and including the end of the calendar quarter in which the employing unit becomes an employer. The first contribution payment of an employing unit which (voluntarily) elects with the written approval of the administrator to become an employer shall accrue at the end of the calendar quarter with respect to wages for employment occurring on and after the date on which such election was approved, and shall be due and paid on or before the last day of the calendar month following the calendar quarter during which the conditions of becoming an employer are satisfied.

E. Whereas, due to circumstances beyond the control of the Office of Employment Security of the state of Louisiana it has been impossible to furnish employers with forms for the preparation of contributions and payroll reports for completion and filing with respect to wages paid during the second calendar quarter of 1971 prior to July 20, 1971; and, whereas such delay will not afford employers sufficient time to prepare and file said contribution and payroll reports by July 31, 1971, as prescribed elsewhere in this regulation; notwithstanding any of the other provisions of this regulation, the time for filing contribution and payroll reports with respect to wages paid by employers during the second calendar quarter of 1971 is hereby extended to the twenty-third day of August, 1971. All contribution and payroll reports and remittances due on said reports which are received or postmarked on or before said August 23, 1971, shall be deemed to have been filed timely for all of the purposes of this regulation and for all purposes of the Louisiana Employment Security Law. This Section shall be applicable only with respect to the second calendar quarter of 1971 and no further.

§309. Reports on Magnetic Media

A. Taxed employers who report 250 or more employees in any calendar quarter must file their quarterly wages as required by R. S. 23:1531 on a magnetic medium using a format prescribed by the Department of Employment and Training. A magnetic media wage report may contain information for more than one employer. Employers with less than 250 employees may elect to use magnetic reporting. Reporting as required by this rule shall commence beginning with the quarter ending March 31, 1982, and each quarter thereafter as follows: the three months ending March 31, June 30, September 30, and December 31.

§311. Instructions on Reports

A. Each employing unit shall comply with instructions pertaining to the contents and due date of any report issued or required by the administrator.

§313. Records

A. Each employing unit shall establish records with respect to employment performed for it as hereinafter indicated and shall preserve such records, including those now existing for a period of not less than five years after the calendar year in which the remuneration with respect to such services was paid.

1. For each worker:

- a. name;
- b. social security number;
- c. place in which his services are performed, or if there is no one such place, then his base of operations;
- d. date on which he was hired, rehired, or returned to work after temporary lay-off and date separated from work;
- e. his remuneration paid for employment occurring on or after July 1, 1940, and period from which payable, showing separately:
 - i. cash remuneration, including special payments;
 - ii. reasonable cash value or remuneration in any medium other than cash, including special payments; and
 - iii. special payments, included in §313.A.1.a and b above (any payments such as bonuses, gifts, etc) and the year in which the services for which the payments were made were rendered;
- f. amounts paid him as allowance or reimbursement for traveling or other business expenses, and period for which payable; and
- g. If he is paid:
 - i. on a salary basis, his wage rate, and period covered by such rate;
 - ii. on fixed hourly basis, his hourly rate and customary scheduled hours per week;
 - iii. on fixed daily basis, his daily rate and customary scheduled days per week; or
 - iv. on piece rate or other variable pay basis, method by which his wages are computed.

2. General

- a. Beginning and ending dates of each pay period.
- b. Total amount of remuneration paid in any pay period for employment occurring on or after July 1, 1940.

3. Records shall be maintained in such form that it would be possible from an inspection thereof to determine:

- a. earnings by weeks of partial unemployment as defined in §327.B;
- b. whether any week of partial unemployment claimed by an individual is in fact a week of less than full-time work; and
- c. time lost, due to unavailability for work by each worker who may be eligible for partial benefits.

§315. Reserved

§317. Reserved

§319. Identification of Workers

A. Each worker engaged in employment for an employer shall procure a federal Social Security account number and report it to every employer by whom he is employed.

B. Each employer shall ascertain the federal Social Security account number of each worker employed by him in employment subject to the Louisiana Employment Security Law. Each employer shall report the federal Social Security account number card in any report required by the administrator with respect to a worker.

§321. Reserved

§323. Separation Notices

A. Individual Separation Notices

1. Under Conditions Which May Disqualify. Whenever a worker is separated from his employment permanently or for an indefinite period or for an expected duration of 7 or more days, under conditions which may disqualify him for benefits pursuant to the provision of R. S. 23:1601, his employer shall within 72 hours after such separation give him, or if such delivery is impossible or impracticable, mail to his last known address a "Separation Notice Alleging Disqualification" (Form LDET-ES 77) on which the employer has entered the required information. Within the same period of time, the employer shall send a copy of such separation notice, certified to by himself or his duly authorized agent, to the administrator.

2. Upon Request of Administrator. Upon request of the administrator for separation information covering any worker separated by an employing unit from its employ, such employing unit shall within 10 days following the mailing of such request, completely fill out such notice and return it to the address specified thereon.

B. Mass Separation Notices. In the event of a separation of 50 or more individuals by an employer for the same reason and about the same time, the employer shall notify the administrator of such separation. Upon receipt of such notice, the administrator shall make full investigation.

C. Labor Dispute Notices

1. In case of a separation due to a labor dispute, the employer shall within 48 hours after such separation file with the local employment office nearest his place of business a notice setting forth the existence of such dispute and the approximate number of workers affected.

2. Upon request by the administrator, such employer shall furnish the names and Social Security account numbers of workers ordinarily attached to the department or the establishment where unemployment is alleged to be caused by a labor dispute.

D. It is not the intent of this regulation to deprive any party of the right to protest or to appeal which is statutorily granted.

§325. Definitions of Week

A. The term *week* means a calendar week. The term *calendar week* means the seven consecutive days commencing at 12:01 a.m. on Sunday and ending at midnight on Saturday.

1. Week of Total or Part-total Unemployment

a. A week of total or part-total unemployment means the seven-consecutive-day period commencing with the first day of the calendar week in which occurs the day, subsequent to his separating from work, on which an individual registers and files a claim in person at an office of the Louisiana Office of Employment Security, except as otherwise provided in §325.A.1.b, c, d, and e.

b. Except as provided in §325.A.1.d and e, a week of total or part-total unemployment of an individual located in an area served only by the itinerant service of the Louisiana Office of Employment Security shall consist of the calendar week in which the individual became unemployed, provided that such individual registers and files a claim in person with such itinerant service the first day such service is available following the commencement of his total or part-total unemployment; and thereafter each calendar week immediately following such week; provided the individual claims benefits each week in accordance with regulations.

c. Except as provided in §325.A.1.d and e, a week of total or part-total unemployment of an individual located in an area not served by a local office or by the itinerant service of the Louisiana Office of Employment Security shall consist of the calendar week in which the individual becomes unemployed, provided that such individual registers and files a claim for benefits by mail in accordance with regulations within seven days after the commencement of such unemployment, and thereafter each calendar week immediately following such week, provided the individual claims benefits for each such week in accordance with regulations.

d. A week of total or part-total unemployment for an individual who fails for good cause to register and file a claim for benefits as specified in §325.A.1.a, b, and c, shall consist of the calendar week in which the individual becomes unemployed, provided that such individual registers with the Louisiana Office of Employment Security within a period of 7 days after such first day of total or part-total unemployment, or on the next day thereafter on which the itinerant service is available, or by mail within 14 days after the commencement of such unemployment; and thereafter each calendar week immediately following such week, provided the individual claims benefits for each such week in accordance with regulations.

e. A week of total or part-total unemployment of any individual affected by a mass separation or labor dispute shall consist of the calendar week in which the individual becomes unemployed, provided that notice thereof is filed by the individual in person within 14 days next following such first day of unemployment; and thereafter each calendar week immediately following such week, provided the individual claims benefits for any such week in accordance with regulations.

2. Week of Partial Unemployment

a. With respect to a partially unemployed individual whose wages are paid on a weekly basis, a week of partial unemployment shall consist of a calendar week, provided that the administrator may, upon his own initiative or upon application, prescribe as to any individual or group of individuals such other seven-consecutive-day period as he may find appropriate under the circumstances.

b. For the purpose of this regulation, an individual shall be deemed to be partially unemployed during not more than four consecutive weeks of total unemployment if such weeks immediately follow a week of partial unemployment and if in such weeks there is a reasonable expectation of his return to employment with such employer.

§327. Types of Unemployment

A. Total Unemployment. A totally unemployed individual is one who, during any week, performs no services and in which no wages are payable to him.

B. Partial Unemployment

1. A partially unemployed individual is one who, during a particular week, earned less than his weekly benefit amount, was employed by a regular employer, and worked less than his normal customary full-time hours for such regular employer because of lack of full-time work.

2. A regular employer is an employer by whom the individual is employed on a regular basis with a reasonable expectation of continuance in that employment and from whom the individual derives the predominant or substantial part of his earnings.

C. Part-Total Unemployment. A part-total unemployed individual is one who, during any week, earned less than his weekly benefit amount and worked less than his full-time hours under any circumstances other than those prescribed under §327.B.

§329. Registration for Work and Claims for Benefits for Total and Part-Total Unemployment

A. Claims for benefits for total or part-total unemployment shall be made on forms prescribed by the administrator for that purpose. In order to claim benefits or waiting period credits for unemployment, an individual shall:

1. file a claim for benefits; and
2. register for work at the office of employment security.

B. The continued claim for benefits for total or part-total unemployment shall be made on forms prescribed by the administrator. Except as otherwise provided in this Section and §333, to establish eligibility for benefits or waiting credits for weeks of total or part-total unemployment during any continuous period of unemployment, the claimant shall continue to report in person or by mail, weekly or biweekly, or at more frequent intervals, if directed by the Administrator or his representative, to the Office of Employment Security office where he registered for work and filed his claim, provided the reporting at more frequent intervals places no unreasonable burden on him or does not unreasonably limit his opportunity to establish his rights to benefits. The claimant may for good cause when unable to report to such office file his continued claim at any other Office of Employment Security office. For reasons found to be cause for any individual's failure to appear at the time specified for reporting at an Office of Employment Security office, a continued claim may be accepted from such individual, effective as of the first day of his week of total or part-total unemployment, if such continued claim is filed within seven days following the date specified for his reporting. If the failure of an individual to file such a claim at the time specified is found to be without good cause or if the continued claim is not filed within the above mentioned seven days, the continued claim will be disallowed.

C. An individual who returns to employment under conditions which no longer render him eligible for benefits or waiting period credits may claim benefits in person or by mail for the week or portion of a week immediately preceding his employment, provided the week or portion

of a week follows without interruption an initial claim or a week for which benefits or waiting period credits were claimed.

E. The administrator may waive or alter either or both of the requirements of this Section to an individual who:

1. is a paid up union member of a recognized craft union;
2. is partially employed and files a claim for part-total benefits;
3. files a claim for shared-work benefits under a shared-work plan; or
4. is on temporary layoff from his regular work with a definite date of return and holds himself available for reemployment at his last place of work.

§331. Registration for Work and Claims for Benefits for Partial Unemployment

A. Employer Responsibility in the Initiation of a First Claim for Partial Benefits in a Benefit Year.

1. Immediately after the termination of any calendar week in which a worker earned less than 60 percent of his customary full-time weekly wage due to lack of work, his employer shall give such worker a low earnings report form, "Application for Partial Benefits," setting forth therein the information required of the employer. If such worker completes and returns the low earnings report form to his employer, such employer shall promptly mail or otherwise transmit such form to the local office of the Department of Employment and Training, Office of Employment Security through which the employer has a partial claims agreement.
2. Upon receipt of the low earning report form, the Department of Employment and Training, Office of Employment Security shall promptly notify such worker named therein of his potential rights to partial benefits and shall notify his employer of such worker's weekly benefit amount and benefit year ending date. Upon receipt thereof, such employer shall record such weekly benefit amount and benefit year ending date upon his payroll records.

B. Employer to Furnish Evidence of Subsequent Weeks of Partial Unemployment. After an employer has been notified of the weekly benefit amount and current benefit year ending date of any worker in his employ, such employer, until otherwise notified, shall immediately after the termination of each calendar week which begins within such benefit year and for which such worker's earnings fall below such weekly benefit amount because of lack of work in such week, furnish each such worker with a copy of the low earnings report form, "Application for Partial Benefits," setting forth the information required therein, including the worker's name and Social Security account number, the ending date of such week, the wages earned therein, and a proper certification as to his having worked less than his normal customary full-time hours because of lack of work in such week. If such worker completes and returns such form to his employer, such employer shall promptly mail or otherwise transmit such form to the local office of the Department of Employment and Training, Office of Employment Security through which the employer has a partial claims agreement.

C. Registration and Filing of Claims for Partial Unemployment. A claim for benefits for any individual on the low earnings report form, "Application For Partial Benefits," or other form designated by the Department of Employment and Training, mailed by him or his employer in his behalf, or delivered to a local office of the Department of Employment and Training, Office

of Employment Security shall constitute such individual's notice of unemployment, registration for work, and claim for benefits or waiting period credit, with respect to each such week of partial unemployment covered by the claim provided that such form is executed by such individual and received by the local office of the Department of Employment and Training, Office of Employment Security within seven days following the week to which the form pertains.

D. Extended Period for Registration and Filing of Claims for Good Cause. Notwithstanding the provisions of §331.C, if the administrator finds that the failure of any individual to register and file a claim for partial unemployment benefits within the time set forth in §331.C was due to failure on the part of the employer to comply with any of the provisions of §331.A, B, and C, or to coercion or intimidation exercised by the employer to prevent the prompt filing of such claim, or to failure by the Department of Employment and Training, Office of Employment Security to discharge its responsibilities promptly in connection with such partial unemployment, the administrator shall extend the period during which such claim may be filed to a date which shall be not less than one week after the individual has received appropriate notice of his potential rights to benefits and his earnings during the period of such partial unemployment, provided that the period during which such claim may be filed shall not be extended beyond the 13-week period subsequent to the end of the actual or potential benefit year during which such week of partial unemployment occurred.

E. Employer Records in Connection with Partial Unemployment. In addition to the requirements set forth in §313, each employer shall keep his payroll records in such form that it would be possible for an inspection to determine with respect to each worker in his employ who may be eligible for partial benefits:

1. wages earned, by weeks, described in §327.B;
2. whether any week was in fact a week of less than full-time work; and
3. time lost, if any, for each such worker, due to his unavailability for work.
4. This regulation applies only to employers with a partial Employer Agreement with one or more of the Louisiana Employment Security Area Offices.

§333. Registration for Work and Claims for Benefits for Individuals Located in Isolated Area, Areas Served on Itinerant Basis, and Other Areas

A. Itinerant Service

1. In order to claim benefits or waiting period credits for unemployment, an individual located in an area served only by itinerant service of the Office of Employment Security shall report in person to such itinerant service office at the first available opportunity therefore, and shall file a claim for benefits with such service.
2. In order to establish eligibility for benefits or for waiting period credits for weeks of total or part-total unemployment, during a continuous period of unemployment the claimant shall continue to report on the dates specified for reporting to such itinerant point and file continued claims for benefits.

B. Mailed Claims. Claims for benefits for total or part-total unemployment may be filed by mail or forms prescribed by the administrator when the administrator finds such filing to be in the

interest of practicability and not inconsistent with the purposes of the Louisiana Employment Security Law.

§335. Witness Fees in Appeal Hearing

A. A witness attending an appeal hearing in obedience to R.S. 23:1631 shall be reimbursed his necessary traveling expenses in conformity with agency travel regulations. The regulation shall not be construed as allowing witness fees or mileage to any party interested in the appeal.

§337. Payment of Benefits and Change of Address

A. Benefit payments shall be made by check and delivered to the claimant or mailed to the individual's last known address after determination of the individual's eligibility for payment. Each claimant, upon changing his address, shall immediately notify the Office of Employment Security of such change.

§339. Interstate Claims

A. Interstate claims will be administered under arrangements entered into by the administrator with the appropriate agencies of other states or of the United States in accordance with R.S. 23:1666 of the Louisiana Employment Security Law.

§341. Regulations for Interstate Charging

A. Louisiana employers shall be charged or noncharged in cases where Louisiana transfers wages earned with Louisiana employers to another state in order that that state pay Unemployment Compensation benefits.

B. The Louisiana employer will be notified of their potential liability and be given 10 days to protest chargeability. Louisiana will determine if the employer should or should not be charged in accordance with §1553 of the Louisiana Employment Security Law based on information supplied by both claimant and employer. Louisiana will not determine claimant eligibility as this is done by the paying state under their Unemployment Compensation Law. If either claimant or employer disagree with the determination, appeal rights will be given in accordance with Employment Security Law.

C. If the employer fails to respond within the first 10 days or fails to follow through timely with any subsequent appeal, the last decision of the agency will stand, and the employer will have lost all subsequent appeal rights.

D. If it is determined that the employer is to be "noncharged," the benefits paid to claimant will be recouped in accordance with §1553 of the Louisiana Employment Security Law.

§343. Employer Elections to Cover Multi-State Workers

A. The following regulations, adopted under R.S. 23:1665 of the Louisiana Employment Security Law, shall govern the Louisiana Office of Employment Security in its administrative cooperation with other states subscribing to the Interstate Reciprocal Coverage Arrangement, herein referred to as "the arrangement."

B. Definitions. As used in this regulation, unless the context clearly indicates otherwise:

Agency—any officer, board, commission or other authority charged with the administration of the unemployment compensation law of the participating jurisdiction.

Interested Jurisdiction—any participating jurisdiction to which an election submitted under this regulation is sent for its approval; and *interested agency* means the agency of such jurisdiction.

Jurisdiction—any state of the United States, the District of Columbia, Canada, or with respect to the federal government, the coverage of any federal unemployment compensation law.

Participating Jurisdiction—a jurisdiction whose administrative agency has subscribed to the arrangement and whose adherence thereto has not terminated.

Service Customarily Performed by an Individual in More than One Jurisdiction—services performed in more than one jurisdiction during a reasonable period, if the nature of the services gives reasonable assurance that they will continue to be performed in more than one jurisdiction or if such services are required or expected to be performed in more than one jurisdiction under the election.

C. Submission and Approval of Coverage Elections Under the Interstate Reciprocal Coverage Arrangement

1. Any employing unit may file an election, on Form RC-1, to cover under the law of a single participating jurisdiction all of the services performed for him by any individual who customarily works for him in more than one participating jurisdiction.
2. Such an election may be filed, with respect to an individual, with any participating jurisdiction in which:
 - a. any part of the individual's services are performed;
 - b. the individual has his residence; or
 - c. the employing unit maintains a place of business to which individual's services bear a reasonable election.
3. The agency of the elected jurisdiction (thus selected and determined) shall initially approve or disapprove the election.
4. If such agency approves the election, it shall forward a copy thereof to the agency of each participating jurisdiction specified thereon, under whose unemployment compensation law the individual or individuals in question might, in the absence of such election, be covered. Each such interested agency shall approve or disapprove the election as promptly as practicable and shall notify the agency of the elected jurisdiction accordingly.
5. In case its law so requires, any such interested agency may, before taking such action, require from the electing employing unit satisfactory evidence that the affected employees have been notified of, and have acquiesced in, the election.
6. If the agency of the elected jurisdiction, or the agency of any interested jurisdiction, disapproves the election, the unit shall again notify the elected jurisdiction and the elected employing unit of its action and of its reasons therefor.
7. Such an election shall take effect as to the elected jurisdiction only if approved by its agency and by one or more interested agencies.
8. An election thus approved shall take effect, as to the interested agency, only if it is approved by such agency.
9. In case any such election is approved only in part, or is disapproved by some of such agencies, the electing employing unit may withdraw its election within 10 days after being notified of such action.

D. Effective period of Elections

1. Commencement

a. An election duly approved under this regulation shall become effective at the beginning of the calendar quarter in which the election was submitted, unless the election, as approved, specifies the beginning of a different calendar quarter.

b. If the electing unit requests an earlier effective date than the beginning of the calendar quarter in which the election is submitted, such earlier date may be approved solely as to those interested jurisdictions in which the employer has no liability to pay contributions for the earlier period in question.

2. Termination

a. The application of an election to any individual under this regulation shall terminate, if the agency of the elected jurisdiction finds that the nature of the services customarily performed by the individual for the electing unit has changed, so that they are no longer customarily performed in more than one participating jurisdiction. Such termination shall be effective as of the close of the calendar quarter in which notice of such finding is mailed to all parties affected.

b. Except as provided in §343.D.2.a, each election approved hereunder shall remain in effect through the close of the calendar year in which it is submitted, and thereafter until the close of the calendar quarter in which the electing unit gives written notice of its termination to all affected agencies.

c. Whenever an election under this regulation ceases to apply to any individual under §343.D.2.a or b, the electing unit shall notify the affected individual accordingly.

E. Reports and Notices by the Electing Unit

1. The electing unit shall promptly notify each individual affected by its approved election, on the form RC-2 supplied by the elected jurisdiction, and shall furnish the elected agency a copy of such notice.

2. Whenever an individual covered by an election under this regulation is separated from his employment, the electing unit shall again notify him, forthwith, as to the jurisdiction under whose unemployment compensation law his services have been covered. If at the time of termination the individual is not located in the election jurisdiction, the electing unit shall notify him as to the procedure for filing interstate benefit claims.

3. The electing unit shall immediately report to the elected jurisdiction any change which occurs in the conditions of employment pertinent to its election, such as cases where an individual's services for the employer cease to be customarily performed in more than one participating jurisdiction or where a change in the work assigned to an individual requires him to perform services in a new participating jurisdiction.

F. Approval of Reciprocal Coverage Elections. The Louisiana Office of Employment Security hereby delegates to its administrator authority to approve or disapprove reciprocal coverage election in accordance with this regulation.

§345. Recognition of Heirs of Deceased Benefit Claimants

A. The heirs of a deceased benefit claimant may make application by submitting a formal affidavit of heirship, to have paid to them all moneys due the deceased at the time of his death.

Affidavits must be submitted by all heirs of full age and majority, or if there be minor heirs, the affidavit must be submitted by their authorized representative.

§347. Transfer of Experience-Rating Record to Successor Where Segregable and Identifiable Part or Portion of the Business is Acquired

A. The transfer of experience-rating records to employers who acquired a segregable and identifiable portion of a predecessor's business within the meaning of R.S. 23:1539 shall be affected on the following basis.

1. Where the business or unit acquired can be completely segregated and identified during the entire period of its existence, the total payroll and experience-rating record attributable thereto shall be transferred to the successor. In this event the only payroll and experience rating records subject to transfer to the successor are those which are actually segregated and identified.
2.
 - a. If the business or unit acquired cannot be segregated and identified during the entire period of its existence, the predecessor and/or the partial successor will provide to the administrator the percentage of the operation that was transferred to the partial successor. The percentage must be agreed upon by both the predecessor and the partial successor. This percentage may be determined by dividing the taxable payroll attributed to the portion acquired for three complete fiscal years prior to the acquisition or the number of years the predecessor was in operation prior to acquisition up to three years, by the total payroll attributed to the predecessor operation for the same period of time.
 - b. The percentage will be applied to the predecessor's total taxable payroll and reserve to determine the taxable payroll and reserve that will be transferred to the partial successor.
 - c. The names and Social Security Numbers of the individuals transferred to the successor, including any employees terminated at the time of the acquisition, must be provided to the administrator and agreed upon by both the predecessor and partial successor.
 - d. If any of the above agreements are not received in writing within 90 days from the date of the partial acquisition, the requirements for partial transfer of payroll records to the partial successor have not been met, and none will be transferred.
3. Determining the Tax Rates for Partial Successors When the Information Is Received on a Timely Basis, Within 90 Days from the Date of Acquisition. If the successor was not an employer at the time of acquisition, his rate for the balance of the then current contribution year shall be the same as that assigned to his predecessor for said year. If the successor was an employer prior to the date of acquisition, his rate of contribution for the period from such date to the end of the then current contribution year shall be the same as his rate with respect to the period immediately preceding the date of acquisition.
4. Determining the Tax Rates for Partial Successors When the Information Has Not Been Provided on a Timely Basis Within 90 Days from Date of Acquisition.
 - a. If the partial successor was not a subject employer at the time of acquisition, his rate for the balance of the then current contribution year shall be the new employer rate or the predecessor rate, whichever is higher.
 - b. If the partial successor was an employer prior to date of acquisition, his rate of contribution for the period from such date to the end of the then current contribution year shall be the same as his rate with respect to the period immediately preceding the date of acquisition.
5. If an employer has more than one partial succession in a calendar year, the aforementioned procedure will be applied in each case.

6. Partial successors who have not been assigned a tax rate prior to acquisition will be assigned the new employer tax rate or the predecessor's tax rate, whichever is higher, during the 90-day period subsequent to the partial acquisition. Once the proper tax rate is determined, however, it will be applied retroactively.

7. The agency may perform an audit to determine the percentage of taxable payroll and reserve that will be transferred to the partial successor if the administrator finds it necessary to do so.

8. In determining whether or not the unit, or portion of the business acquired by the successor, is segregable and identifiable, each case should be separately considered and analyzed. If the payroll and experience-rating records of the unit, or portion of the business acquired, can be broken down and segregated to permit the proper crediting of wages, contribution of payments and the charging of benefits, as provided in this regulation, the requirements of the law shall be considered as having been fully met. The employer will be required to furnish such additional analysis of his payroll records as may be required in order that proper segregation may be made.

§349. Contribution and Wage Reports Covering Seamen and Seamen's Wages Paid Under Shipping Articles

A. Pay Period. For the purpose of this regulation the term "pay period" established by "Shipping Articles" means the period of the voyage or engagement of the crew under "Articles of Agreement" pursuant to Title 46 of the United States Code.

B. Current Reports. Notwithstanding any other provision of other regulations, contribution reports and wage reports with respect to wages earned in any pay period established by Shipping Articles shall be submitted as follows.

1. The total amount of such wages shall be included in the wage report and contribution report for the calendar quarter in which such period terminates together with all other wages paid during such quarter.

2. If the pay period established under Shipping Articles includes more than one calendar quarter, the beginning dates of such pay period shall be shown opposite the amount of wages reported.

3. For the purpose of obtaining eligibility for and the amount of benefits, the wages so reported shall be prorated among the calendar quarters in which the wages were earned according to the length of employment in each of such quarters.

C. Special Reports. The employer shall, upon request of the administrator, promptly furnish a statement of the wages of a seaman, whenever such statement is necessary in order to determine such seaman's eligibility for and rate of benefits. If such a statement includes wages which have not previously been included in a wage report and have been earned in a pay period extending over more than one calendar quarter, such wages shall be reported and prorated as set forth in §349.B.2 and 3.

§351. Benefit Determination Notice

A. Each notice of benefit determination which the administrator is required to furnish the claimant shall, in addition to stating the decision and its reason, include a notice specifying the claimant's appeal rights. The notice of appeal rights shall state clearly the place and manner for taking an appeal from the determination and the period within which an appeal may be taken.

§353. Disclosure of Information

A. No disclosure of information obtained at any time from workers, employers, or other persons or groups in the course of administering the Louisiana Employment Security Law shall be made directly or indirectly, except as authorized by this regulation.

B. Disclosure of any such information is authorized in the following cases for the following purposes:

1. to any properly identified claimant for benefits or payments under a state, territorial, or federal law, or to his duly authorized representative, information which directly concerns the claimant and which is reasonably necessary for the proper presentation of his claim;
2. to an employer or his duly authorized representative to the extent necessary to enable him to discharge his obligations and safeguard his rights under the law;
3. to the federal Internal Revenue Service to the extent necessary for the administration of the Federal Unemployment Tax Act;
4. to agencies administering public works and public assistance through public employment;
5. to any agency of the state government or of the federal government lawfully charged with the administration of a law providing for old-age assistance, or other public assistance, work relief, pension, retirement, or other benefit payments, but only for purposes reasonably necessary for the proper administration of such law;
6. to state and federal agencies administering laws, whether or not directly related to the employment security program, provided that the information so related is held confidential by the state or federal agency to which it is supplied, its release does not interfere with or delay administration, and the state agency is reimbursed at the discretion of the administrator, for the cost of supplying such information;
7. to applicants, employers, and the public, general information concerning employment opportunities, employment levels and trends, and labor supply and demand, provided such release or publication does not include information identifying individual applicants, employers, or employing establishments; and
8. to all governmental authorities whose functions will aid the employment service in carrying out an amplified and more effective placement service.

C. Duly authorized representative as used in this regulation is defined as a representative authorized as such in writing by the party or parties concerned.

§355. Services to Claimants

A. Claims personnel will give each claimant such assistance as is appropriate and practicable in finding suitable work and at their discretion determine when more complete placement and employment services by employment service personnel are necessary and appropriate.

§357. Terms and Conditions Not Applicable to Claims for or Payment of Extended Compensation

A. Section 1600(4) of the Louisiana Employment Security Law, pertaining to a waiting period of one week, is not applicable to claims for extended compensation.

B. All disqualifications for regular benefits apply to extended benefits in the same manner and to the same extent as to regular claims.

C. The forwarding of an extended compensation claim notice to a former employer of an individual does not serve to reopen a previously resolved issue or open to adjudication any issue concerning which an employer failed to furnish information within the time provided by §323.

§359. Approved Training Definition

A. Approved training is training to which an individual has been referred by the administrator of the Department of Employment and Training or his duly authorized representative. Referral to training will be made to vocational training, basic education or other short term vocationally directed academic courses designed to develop a particular skill. Approval of training in such types of courses may also be given, upon application, if the individual has been accepted as a student at a school or course approved by the Louisiana Department of Education, which is designed to make the individual employable or more employable in an occupation that is in demand and there is reasonable expectation that the individual will be employed upon completion, except no approval will be given to any training course taken primarily for credit toward the degree requirements of baccalaureate or advanced degree, and no approval will be given to a training course which will take longer than 104 weeks to complete. No training will be approved for an individual unless it is found that the demands for his present skills are minimal and not likely to improve under present circumstances. The individual in training will be required to furnish reports from the training facility concerning his attendance. Unsatisfactory attendance attested to by the training facility shall constitute grounds for terminating application of the provisions of R.S. 23:1602(1) to the individual unless good cause is shown for the unsatisfactory attendance.

§361. Types of Employment

A. For purposes of R.S. 23:1601(1):

Full-Time Employment—employment which requires the individual's presence for the major portion of the normal work-day, week, or month. Full-time employment is that employment which normally provides an individual with the major portion of his earnings.

Interim Employment—employment performed by individuals who are on temporary layoff or are otherwise separated from their full-time regular employment and expect to return to their full-time regular employment within a reasonable time.

Part-Time Employment—employment which requires an individual's presence less than the normal workday, week, or month and is normally used to supplement income from full-time work.

Regular Employment—employment of an individual on a regular basis with a reasonable expectation of continuance in that employment.

§363. Proof of Unemployment by a Principal Officer or Controlling Stockholder, or Relative thereof, of a Corporation, Partnership or Proprietorship

A. For the purpose of R.S. 23:1472(19) an individual who was the principal officer or controlling stockholder of a corporation, partnership or proprietorship or related to him in any degree as set forth in Paragraph (a) thereof, shall be deemed to be "unemployed" if:

1. the corporation, partnership or proprietorship does not appear as an employer in the individual's base period; and
2. he otherwise meets the definition of "unemployed."

B. If the corporation, partnership or proprietorship does not appear in the individual's base period as an employer, he shall be deemed to be unemployed if:

1. the employing unit is no longer in business or acts beyond the control of the controlling stockholder or principal officer occurred to such an extent to fully justify the individual's inability to perform services judged on the same basis as any employer under similar conditions; and
2. the individual otherwise meets the definition of "unemployed."

C. *Principal Officer*—the president, vice president, secretary or treasurer so designated by the corporation.

§365. Liability Determination Appeal Rights

A. An employer shall have 90 days from the mailing date of the Liability Determination (original or corrected) to appeal the agency's determination of his employer status.

B. Examples of liability determination include, but are not limited to new employer, succession, partial succession, business buying business, liability date correction, reinstated accounts, subsidiary.

§367. Assignment of Rates for Corporate Groups

A. If the administrator grants an employer the right to be recognized as a corporate group, the rate will be assigned as follows.

B. A new number will be assigned to the parent corporation. The rate for the then current year will be based on the combined experience rating records of all employers that form the corporate group.

§369. Waiver of Overpayment Recovery

A. A waiver of the overpayment may be granted only if:

1. the claimant was without fault in causing the overpayment; and
2. repayment would be against equity and good conscience.

B.1. To determine if fault existed on the part of the claimant, it must be established whether the claimant:

- a. gave inaccurate information;
 - b. failed to disclose a material fact;
 - c. knew or should have known that he/she is not entitled to the benefits;
 - d. caused the overpayment by an act of omission of information known to the claimant;
- or
- e. had a determination of ineligibility due to fraud.

2. An affirmative finding on any one of the above precludes waiver of the overpayment.

C. Regardless of fault for the overpayment, the following factors must also be considered to determine if repayment would be contrary to equity and good conscience:

1. whether recovery of the overpayment would cause extraordinary financial hardship to the claimant for at least three months:

- a. extraordinary financial hardship shall be considered inability to obtain minimal necessities of living;
 - b. all cash resources and income of the claimant, as well as of the family of the claimant, shall be considered;
2. whether the overpayment was the result of a decision on appeal;
 3. whether claimant was given notice that a reversal on appeal would result in overpayment.

D. Determinations granting or denying waivers of overpayment shall be made only on a signed request from the claimant for a waiver determination. Upon filing by claimant of request for waiver, a written questionnaire shall be provided to claimant for answer to be returned to the administrator within 15 days of the date of such questionnaire.

E. All notices of determination of overpayment shall include information regarding rights of appeal and waiver provisions.

§371. Overpayment Recovery

A.1. The amount of overpayment is immediately due and payable on demand upon exhaustion and/or expiration of appeal rights against:

- a. assessment of overpayment; and/or
- b. denial of waiver of repayment.

2. If the individual is unable to immediately repay the overpayment in full upon demand, a repayment agreement in writing will be negotiated in compliance with the Repayment Table for Overpayment listed below.

Repayment Tables for Overpayment

Total overpayment amount Is:	Number of Months to Repay	Minimum Acceptable Payment per Month
At Least But Less Than		
\$ 001 \$ 250	In Full or 90 Days	\$ 80
\$ 251 \$ 500	12 Months	\$ 45
\$ 501 \$1000	12 Months	\$ 85
\$1001 \$1500	24 Months	\$ 65
\$1501 \$2000	24 Months	\$ 85
\$2001 \$2500	24 Months	\$105
\$2501 \$3000	24 Months	\$125
\$3001 \$3500	36 Months	\$100
\$3501 \$4000	36 Months	\$115
\$4001 \$4500	36 Months	\$125
\$4501 \$5000	36 Months	\$140
\$5001 \$5500	48 Months	\$115
\$5501 \$6000	48 Months	\$125
\$6001 \$6500	48 Months	\$135
\$6501 \$7000	48 Months	\$145
\$7001 \$7500	60 Months	\$125
\$7501 \$8000	60 Months	\$135
\$8001 \$8500	60 Months	\$145
\$8501 \$9000	60 Months	\$150

B. Initial payment must be received within 45 days of the date upon which the repayment agreement is signed. Subsequent payments are due to be paid in monthly increments which must be received no later than 30 days thereafter.

C. An adjustment of the repayment schedule may be granted at the written request of the claimant only if there has been a material change in his or her financial condition.

D. Requests to adjust the repayment schedule will only be granted if in compliance with criteria set forth in §369.A.2, Waiver of Overpayment Recovery.

E. No administrative appeal is provided from adjustment of or refusal to adjust repayment schedule.

§373. Medical Services Performed by Physician or Professional Corporation

A. For the purpose of exclusion of medical services rendered by a physician or professional corporation on behalf of a hospital or other medical facility or institution under R.S.

23:1472(12)(H)(XIX), written certification from the Internal Revenue Service of exemption as an independent contractor or a non-profit organization shall be submitted to the administrator by such physician or professional corporation.